

Correspondence from Philip L. Ellison, MBA, JD, Esq
Business Counselor & Attorney at Law
pellison@olcplc.com

May 22, 2019

SENT VIA EMAIL & HAND DELIVERY

Matt Cairym, Superintendent
Freeland Community School District
710 Powley Drive
Freeland, Michigan 48623

cairy@freelandschools.net

**Re: Adjournment of Expulsion Hearing; Due Process Demands;
FOIA and FERPA Requests
In re H [REDACTED] K [REDACTED]**

Dear Superintendent Cairym:

This law office serves as legal counsel to H [REDACTED] K [REDACTED], via his parents, Jason and Amber Kutchinski. You may treat this letter as formal notice of the same. As counsel, I expect that all future communications regarding H [REDACTED] K [REDACTED] will be provided to my office. I have directed the Kutchinskis to have no further communications with you or Freeland Community School District regarding this matter without my express direction.

This letter follows up the telephone conversation with me on May 22, 2019. You indicated that Freeland Community School District does not have counsel for this matter. During our telephone conversation, I formally (in oral fashion) requested—and you granted—an adjournment of any expulsion hearing for H [REDACTED]. If this understanding is in error, please immediately contact me.

My clients seek to adjourn any expulsion hearing until such time as sufficient due process is fulfilled and when my office, together with Mr. and Mrs. Kutchinski, complete a full review of all facts, information, and evidence to be submitted via the school expulsion process. The facts, as I understand them (which the materials may or may not bear out) causes substantial doubt why the expulsion has even been initiated as to H [REDACTED]. To that end, I, along with Mr. and Mrs. Kutchinski, will have a full understanding in order to fully defend or concur with any assertion to be made at the called-for expulsion hearing.

As the United States Supreme Court has explained, “education is perhaps the most important function of state and local governments” and the total exclusion from the educational process for more than a trivial period is a serious event in the life of the suspended child. The student’s interest is to avoid unfair or mistaken exclusion from the educational process, with all of its unfortunate consequences.

Great Lakes Bay Region
PO Box 107
Hemlock, MI 48626
Direct (989) 642-0055
Fax (888) 398-7003

To that end, I, along with Mr. and Mrs. Kutchinski, hereby formally request full formal written notice of the charges and/or allegations being made against H [REDACTED] K [REDACTED], together with full and complete copies of all of the following:

1. All rules, policies, and/or guidelines H [REDACTED] is accused of violating;
2. all evidence proposed to utilized at the expulsion hearing;
3. all evidence that can, may, or will exculpate H [REDACTED];
4. any and all written, oral, or provided statements by any persons related to the matters involving H [REDACTED];
5. a list of all to be called or potential witnesses (and any expected testimony)
6. his transcripts (grades);
7. disciplinary history;
8. all written (or unwritten) processes, procedures, standards, and/or practices (including Board of Education policies of and regarding expulsion; and
9. the investigative involvement of Matt Cairry to the matter in dispute.


To the extent Freeland Community School District will not provide these materials willingly or in compliance with due process, this office, on behalf of Jason Kutchinski, requests a copy of these materials via, first, the *Freedom of Information Act*, or alternatively as 'education records' pursuant to the *Family Educational Rights and Privacy Act* ("FERPA").

This law office is willing to pay reasonable fees, in accordance with FOIA cost regulations, for the fulfillment of this request. FERPA prohibits the imposition of a fee to review documents (see 34 CFR Sec. 99.11(b)). If you choose redact any portion of any documents responsive to this request, please provide a written explanation for the redaction including a reference to the specific statutory exemption(s) upon which you rely. Also, please provide all segregable non- exempt portions of otherwise exempt material.

Your prompt attention to this matter is greatly appreciated.

If you have any questions, please feel free contact this office in writing.

Best regards,



Philip L. Ellison, MBA, JD, Esq.
Attorney at Law

CC: Client Litigation File
Jason Kutchinski (via email, [REDACTED]@att.net)